

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DAVID TROUPE,

Plaintiff,

v.

CHARLES PEASE, et al.,

Defendants.

No. 4:15-CV-05090-EFS

ORDER DENYING PLAINTIFF'S MOTIONS

Before the Court are David Troupe's Motion for Protective Order and Transfer, ECF No. 45; Motion to Compel WSP, ECF No. 47; and Motion for Protective Order, ECF No. 60. On November 7, 2016, the Court held a pretrial conference in one of Plaintiff's other lawsuits, case number 2:13-CV-05038-EFS (Case 5038). At the hearing, the Court heard argument and made rulings on various issues that Plaintiff also raises in this matter. Having conducted that hearing, and having reviewed the parties' submissions, the Court is fully informed. The Court denies Plaintiff's motions for the reasons set forth below.

I. MOTION FOR PROTECTIVE ORDER AND TRANSFER (ECF NO. 45)

Plaintiff's Motion for Protective Order and Transfer, ECF No. 45, raises issues outside the scope of this case. Plaintiff also fails to demonstrate any interference with his ability to pursue this case. The Court therefore denies Plaintiff's motion.

1 **A. Request for Protective Orders**

2 Plaintiff requests that the Court issue a protective order
3 against Jason Kaehlor, William Hale, and Anthony Gonzalez to prevent
4 physical contact, verbal contact, being within 100 feet, and contact
5 with Plaintiff's legal work. ECF No. 45. As a preliminary matter, the
6 Court notes that Plaintiff's motion lacks any allegations as to Jason
7 Kaehlor. The Court therefore finds no basis to issue a protective
8 order as to Jason Kaehlor.

9 According to Plaintiff, Defendant William Hale has called him a
10 "fag" and told Plaintiff to kill himself. ECF No. 45. Although these
11 allegations are concerning, this case is not the proper avenue for
12 Plaintiff to litigate new and independent claims, even if made against
13 a current Defendant. Nor do Plaintiff's allegation show any
14 interference with his ability to pursue this case. Therefore, the
15 Court finds Plaintiff's requested protective order would not be
16 appropriate as to Defendant Hale.

17 Plaintiff alleges that non-party Anthony Gonzalez denied
18 Plaintiff access to his legal property. ECF No. 45. Defendants
19 concede that nearly two weeks passed between Plaintiff's request to
20 access his legal documents on October 6, 2016, and his access on
21 October 19. ECF No. 53 at 65. However, Plaintiff fails to establish –
22 and there is no indication – that this caused him to miss any
23 deadlines or otherwise caused the type of "actual injury" that is
24 required for an access-to-the-courts claim. *See Vandelft v. Moses*, 31
25 F.3d 794, 797 (9th Cir. 1994), *cert. denied*, 116 S. Ct. 91 (1995).
26 The Court finds a protective order is not currently necessary to

1 ensure Plaintiff continues to have adequate access to the courts and
2 his files.

3 **B. Request for Transfer**

4 Plaintiff argues that placement at Washington State Penitentiary
5 (WSP), rather than at Stafford Creek Corrections Center, is preventing
6 him from properly participating in this lawsuit. ECF No. 45. The
7 Court has not directed the Washington State Department of Corrections
8 (DOC) to place Plaintiff in any particular facility. On October 4,
9 2016, the Court admonished the DOC to refrain from repeatedly
10 transferring Plaintiff in a manner that would interfere with his
11 ability to litigate his cases, including Case 5038, which has pretrial
12 conferences and trial scheduled to take place in the near future.

13 The Court remains determined to ensure Plaintiff is afforded
14 adequate access to the courts and a fair opportunity to present his
15 claims. However, the Court finds that placement at WSP does not
16 undermine these goals. Plaintiff's numerous filings since placement
17 at WSP suggest he is fully capable of litigating his cases from there.
18 Moreover, Stafford Creek personnel aver that the entirety of
19 Plaintiff's legal materials have been sent to WSP. ECF No. 53 at 12.
20 Thus, the Court finds no reasonable basis to interfere with DOC's
21 decision to place Plaintiff at WSP, especially given the need for
22 Plaintiff to be able to litigate Case 5038.

23 **II. PLAINTIFF'S MOTION TO COMPEL WSP (ECF NO. 47)**

24 Plaintiff also requests that the Court compel WSP to prohibit
25 Shari Hall from handling his legal scans for electronic filing, create
26 a receipt-signature requirement for electronic filings, and limit

1 people who handle legal scans to those who are specifically trained to
2 do so. ECF No. 47. General Order Nos. 15-35-1 and 16-35-1 govern the
3 Prisoner E-Filing Initiative created by the Eastern District of
4 Washington and the Washington Department of Corrections, and the
5 orders specifically state that printed notices of electronic filings
6 are to be provided through the institution's existing mail system.
7 This decision was the product of significant negotiation and
8 consideration of how to limit the burden on prison staff while
9 expanding prisoners' ability to bring claims, and Defendants have
10 supplied sworn declarations that WSP is in full compliance with the
11 directives implemented under the E-filing Initiative. See Case 5038,
12 ECF No. 276.

13 Plaintiff has not demonstrated that WSP policies interfere with
14 his ability to litigate this case. Nor has he shown Shari Hall has
15 personally interfered with his litigation or otherwise engaged in
16 misconduct. The Court therefore denies his motion.

17 **III. MOTION FOR PROTECTIVE ORDER (ECF NO. 60)**

18 Most recently, Plaintiff asks the Court to prohibit Defendant
19 Hale from having any contact with Plaintiff, and to prohibit Defendant
20 R Jason Morgan from having any contact with Plaintiff's legal
21 property. As it addresses issues outside the case at hand, the Court
22 denies Plaintiff's motion.

23 Plaintiff reiterates the allegations against Defendant Hale made
24 in his earlier Motion for Protective Order and Transfer, ECF No. 45,
25 addressed above, and adds allegations that Defendant Hale physically
26 assaults Plaintiff by digging fingers into his arm during escorts. ECF

1 No. 60. Even if true, Plaintiff's allegations lie outside the scope
2 of this case.

3 Plaintiff accuses Defendant R Jason Morgan of "using his notary
4 service to read [Plaintiff]'s legal documents" after he had requested
5 notary service from the law librarian for documents relating to this
6 case. ECF No. 60. Again, however, Plaintiff has not demonstrated that
7 Defendant Morgan acting as a notary in the prison context has
8 undermined Plaintiff's ability to litigate this case, and the Court
9 will not interfere unnecessarily with the internal operations of the
10 prison facility. The Court therefore denies his motion.

11 **IV. MOVING FORWARD**

12 As this case progresses, the Court admonishes the DOC to ensure
13 Plaintiff continues to have adequate access to the courts. As this
14 Court has already advised Plaintiff in Case 5038, the Court is aware
15 that Plaintiff faces challenges in pursuing this litigation, but notes
16 that many such challenges are inherent when any individual –
17 especially a prisoner – chooses to litigate multiple lawsuits
18 simultaneously. Because of these inherent difficulties, the Court
19 has, when appropriate, extended deadlines and granted reconsideration
20 of issues to ensure Plaintiff is not denied access to the courts.
21 That said, the Court's flexibility is not permission for Plaintiff to
22 air his every grievance against Defendants, WSP, and/or the DOC. The
23 DOC is given broad authority to implement practices and procedures –
24 even if inconvenient – that are reasonably related to legitimate
25 penological interests. See *Turner v. Safley*, 482 U.S. 78, 89 (1987).
26 The Court wishes to make clear to Plaintiff that "adequate" or

1 "reasonable" access to the courts is not synonymous with "unfettered"
2 access. Plaintiff is to refrain from filing motions that are outside
3 the narrow scope of his claims in this case.

4 Accordingly, **IT IS HEREBY ORDERED:**

5 1. Plaintiff's Motion for Protective Order and Transfer, **ECF No.**
6 **45**, is **DENIED**.

7 2. Plaintiff's Motion to Compel WSP, **ECF No. 47**, is **DENIED**.

8 3. Plaintiff's Motion for Protective Order, **ECF No. 60**, is **DENIED**.

9 **IT IS FURTHER ORDERED** that the Clerk's Office shall enter this
10 Order and provide copies to Plaintiff, all counsel, and the DOC.

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13 **DATED** this 21st day of November 2016.

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EDWARD F. SHEA
16 Senior United States District Judge
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